IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1851 OF 2005

Smt Kunda Mahadev Shembekar ...Petitioner

Vs.

Sanjeev Mahadev Shembekar & Anr. ...Respondents

Shri S.M.Oak i/by Shri A.A.Garge for the Petitioner.
Ms Vaidehi Mhaisapurkar for the Respondent No.1.
Shri S.V.More, A.P.P for the State.

CORAM : A. S. OKA, J.
DATE : OCTOBER 19, 2006.

P.C.:

1. By consent of the parties, the Writ Petition is taken up for final hearing. The dispute is between the Petitioner-mother and the first Respondent-son. Prayer in this Petition is for quashing order dated 28th June, 2005 passed by the learned Judicial Magistrate (First Class), Baramati and for quashing the charge framed under sections 193 and 420 of the Indian Penal Code against the Petitioner. The said order has been passed on a private complaint filed by the first Respondent against the Petitioner alleging commission of offences under section 420, 192, 199 and 200 of the Indian Penal Code.

2. When this matter was called out yesterday, the Advocate for the first Respondent produced an affidavit

sworn by the Petitioner on 30th September, 2006 before a Notary Public. The learned Advocate for the first Respondent on instructions of the first Respondent submitted that if the Petitioner has no objection for permitting the first Respondent to rely upon the said affidavit in pending proceedings in respect of the property which is referred to in the said affidavit, the first Respondent will not have any objection for quashing the proceedings of the criminal case against the Petitioner.

3. Yesterday I granted time to the Advocate for the Petitioner to take instructions. Today when the matter is called out, Shri S.M.Oak, the learned Advocate appearing for the Petitioner on instructions states that said affidavit has been affirmed by the Petitioner and the Petitioner has no objection if the said affidavit is produced and relied upon by the first Respondent in pending proceedings in respect of the property which is referred to in the affidavit including the proceedings pending before the Revenue Authorities, subject to condition that the complaint against the Petitioner is quashed. The aforesaid statements made by the Advocate for the Petitioner are accepted.

4. The learned Advocate for the first Respondent on instructions of the first Respondent who is stated to be present in the court states that as the aforesaid statements made by the Petitioner through her Advocate have been accepted, the first Respondent has no objection if the proceeding of the complaint filed by him is quashed.

5. Considering the relationship between the Petitioner and the first Respondent, I find that continuation of the criminal proceedings will cause sheer harassment to both the parties. The original affidavit dated 30th September, 2006 of the Petitioner is already in custody of the first Respondent. A xerox copy of the said affidavit is taken on record and marked "X" for identification.

6. I have perused the complaint and the order impugned. It is obvious that the complaint is filed as a result of the dispute about the property between the Petitioner mother and the first Respondent-son. The aforesaid Affidavit resolves the said dispute. Therefore, in my view this is a fit case for exercising jurisdiction of section 482 of the Code of Criminal

Procedure, 1973 for quashing the proceedings of the criminal case.

7. Hence, Petition is disposed of by passing following order:

(i) The impugned Order dated 20th June, 2005 is quashed and set aside. The proceeding of case being R.C.C.No.228 of 2004 pending in the court of Judicial Magistrate (First Class), Baramati is quashed.

(ii) Parties to act upon an authenticated copy of this order.

JUDGE